

IT 06-8

Tax Type: Income Tax

Issue: Non-Filers (Income Tax)

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**THE DEPARTMENT OF REVENUE
OF THE STATE OF ILLINOIS**

v.

JOHN DOE,

Taxpayer

No. 05-IT-0000

SSN: 000-00-0000

Tax Years: 1998, 1999, 2000

**Kenneth J. Galvin
Administrative Law Judge**

RECOMMENDATION FOR DISPOSITION

Appearances: Mr. John Doe, appearing *pro se*; Mr. Sean Cullinan, Special Assistant Attorney General, appearing on behalf of the Department of Revenue of the State of Illinois.

Synopsis:

On April 21, 2005, the Illinois Department of Revenue (hereinafter “the Department”) issued a Notice of Deficiency (hereinafter “NOD”) to John Doe (hereinafter “taxpayer”). The basis of the NOD was the Department’s determination that taxpayer had failed to file an Illinois income tax return for tax years 1998, 1999 and 2000. The NOD proposed the assessment of taxes, penalties and interest. Taxpayer filed a protest of the NOD, and requested a hearing. Dept. Ex. No. 1. After the issuance of the NOD, the Department adjusted the amount of taxes, penalties and interest for the three years based on information received from the Internal Revenue Service. The adjusted amounts were detailed on an EDA-24 (Auditor’s Report). Dept. Ex. No. 2. On August 28,

2005, Mr. Doe paid \$497, which was the adjusted amount of tax due according to the EDA-24. Dept. Ex. No. 3.

An evidentiary hearing was held in this matter on October 5, 2005, with Dean Doe testifying.¹ Mr. Doe stated at the evidentiary hearing that he was only protesting the “balance left over of penalties and interest.” Tr. p. 8. Therefore, the only issue remaining in this case is whether the penalties and interest have been appropriately assessed. Following a review of the evidence and the testimony, it is recommended that the Department’s NOD as adjusted by the EDA-24 (Auditor’s Report) be finalized.

Findings of Fact:

1. The Department’s *prima facie* case, inclusive of all jurisdictional elements, is established by the NOD, which indicates that the taxpayer failed to file an IL-1040 for 1998, 1999 and 2000 and proposes a tax assessment of \$6,481 plus penalties and interest. Tr. p. 5; Dept. Ex. No. 1.
2. The NOD is adjusted as shown on an EDA-24 (Auditor’s Report) dated August 16, 2005 showing a revised net tax due of \$497 plus penalties and interest. Tr. p. 5; Dept. Ex. No. 2.
3. On August 31, 2005, taxpayer paid \$497, which was the adjusted tax liability for 1998, 1999 and 2000. Tr. p. 6; Dept. Ex. No. 2.
4. Taxpayer provided no justification for his failure to file an Illinois income tax return.

Conclusions of Law:

Taxpayer has been assessed a penalty in this matter in accordance with the “Uniform Penalty and Interest Act” for failure to file a tax return by the due date. (35

¹ The evidentiary hearing was held before Administrative Law Judge Charles McClellan, who has since left the Office of Administrative Hearings.

ILCS 735/3-3(a-5)). The penalties imposed under the provisions of Section 735/3-3 shall not apply if the taxpayer shows that the failure to file a return or pay the amount due at the required time was due to reasonable cause. 35 ILCS 735/3-8. Taxpayer stated at the evidentiary hearing that his accountant gives him lots of papers to sign, that he “honestly” doesn’t know what he’s signing for and that the situation is “basically all my fault.” Tr. pp. 7-8. Taxpayer did not offer any reasonable cause for his failure to file and, accordingly, the penalties assessed for failure to file a timely income tax return should not be abated. The penalties and interest have been calculated at 200% as required by the “Tax Delinquency Amnesty Act” (P.A. 93-26 effective 6/20/2003) because Mr. Doe’s tax liability was eligible for amnesty under the Act and he failed to satisfy the liability during the amnesty period.

WHEREFORE, for the reasons stated above, it is my recommendation that the NOD as adjusted by the EDA-24 be finalized.

Kenneth J. Galvin
Administrative Law Judge

May 8, 2006